

A DEEPER DIVE INTO THE  
**CARES Act And Its  
Benefits**

*PPP, EIDL, ERTC, Payroll Tax Deferral*

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## *What portion of PPP loan is forgivable?*

Borrower is eligible for loan forgiveness of indebtedness on a covered loan in an amount equal to the sum of the following costs incurred and payments made during the 8 weeks (covered period) after origination date of the loan:

- **Payroll costs – Same definition as loan**
- **Interest on any covered mortgage obligation**
- **Rent**
- **Utilities**



## *When does the 8-week period begin?*

- The date the lender makes the first disbursement of the PPP loan to the borrower.
- The lender must make the first disbursement **no later than 10 calendar days from the date of loan approval.**



## *What are the limits on the amount of loan forgiveness?*

- The amount may not exceed the principal
- Reductions in loan forgiveness are based on reductions in the number of employees and wages



## Potential reduction in forgiveness due to reduced wages - Example

### Number of Employees

Average FT & FTEs Per Month During 8-Week Covered Period	80
Average FT & FTEs Per Month From 2/15/2019 – 6/30/2019	100

80.00%

- OR -

Average FT & FTEs Per Month During 8-Week Covered Period	80
Average FT & FTEs Per Month From 1/1/2020 – 2/29/2020	85

94.11%



# Calculating FTEs

## Three-step process

1. Count the number of full-time employees in a month.
  - a) Eligible employees hired to work 30 hours or more per week – even if they do not work 30 hours per week.
  - b) If they are designated as FT, they are counted as FT
2. Add all the hours of part-time employees in a month and divide by 120. *This is the full-time equivalent (FTE) number.*
3. Add results from 1 and 2 and round down if it is a fraction. ***This is FTE count for that month.***



## ***PARTNERSHIPS! New Guidance 4/14/20 Interim Final Rule***

“If you are a partner in a partnership, the self-employment income of general **active** partners may be reported as a payroll cost, up to \$100,000 annualized, on a PPP loan application filed by or on behalf of the partnership.”

- **Need to have self-employment income**
- **Guidance does not address treatment of Guaranteed Payment (GP) for services, however insights say that GP's paid to partners are the functional equivalent of salary and considered self employment income**
- **Maximum \$1923/wk. per partner (\$100,000 annualized)**
- **If multiple entities – pick one entity**



*Is there also a reduction of loan forgiveness based on reduction of wages?*

**Yes**

Loan forgiveness is reduced by the amount of any reduction in total wages of any employee (during the 8-week covered period) that is in excess of 25% of the total wages of the employee during the most recent full quarter before the covered period.





*Can I reduce the forgiveness reduction if I rehire employees or restore wages?*

**Yes**

Reductions in the number of FTEs or wages from February 15, 2020 to April 26, 2020 (30 days after enactment of the CARES Act) will not reduce forgiveness

**IF**

By June 30, 2020, the borrower eliminates the reduction in FTEs or reduction in wages (*Even if this is outside your 8-week covered period*).



## *How Do I Apply For Forgiveness?*

Submit application to the lender servicing the loan with the following information:

Documentation verifying the number of FTEs on payroll and pay rates for the computation periods as follows:

- Covered period to 8 weeks after loan closing
- February 15, 2019 to June 30, 2019

**OR**

- January 1, 2020 to February 29, 2020



## *FTEs and Payroll Documentation*

Submit application to the lender servicing the loan with the following information:

### **Salaries by employee**

- Covered period to 8 weeks after loan closing
- Most recent full quarter before covered period

### ***Documentation to include:***

- Payroll tax filings to the IRS
- State income, payroll and UC filings



## *What documentation is needed for mortgage interest, rent and utilities?*

- Cancelled checks
- Payment receipts
- Transcripts of accounts
- Any other documentation the administrator determines necessary



## *Certification of a representative of the eligible recipient required*

- Certifies that the documentation presented is true and correct
- Certifies the amount of requested forgiveness was used to retain employees, make interest payments, rent and utilities for the covered 8-week period



## *When will the forgiveness decision be made?*

The lender has 60 days after receiving the application for loan forgiveness to issue a decision on the application.



## *Are the forgiveness amounts taxable?*

Any amount that would be includable in gross income of the eligible recipient by reason of forgiveness shall be excluded from gross income.





# COVID-19 Payroll Implications

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# Stimulus Package – CARES Act Round 2

## Passed Senate and House as of 4/24/20

- **Additional \$484 billion in funding for small businesses and hospitals**
  - \$310 billion in new funds for PPP Loans
    - \$60 billion will specifically go to small lenders (e.g. credit unions) to issue loans
  - \$60 billion for SBA disaster assistance loans and grants (e.g. EIDL program)
- **Same PPP eligibility rules (except FAQ #31) and forgiveness rules apply for additional PPP and EIDL programs previously in place**
  - PPP = Loan Forgiveness if 75% payroll / 25% “other” spend within 8 weeks of loan
    - Must spend at least 75% on payroll over loan period
    - 1% interest, \$10M max, 2-year loan term, 6 month payment deferral
  - EIDL = \$10k up-front grant, up to \$2M loan, can be converted to PPP loan
    - 3.75% interest, \$2M max, up to 10-year loan term, 1 year payment deferral



# Stimulus Package – CARES Act

## Summary of Benefits

### Eligibility to Claim Benefits

- **Paycheck Protection Program (PPP) Loan & Loan Forgiveness**
  - Less than 500 Total Employees\* OR 500 per location if hotel/restaurant
- **Employer Retention Tax Credit**
  - Businesses affected by COVID-19 due to closures or reduction in gross receipts
  - CANNOT claim if Company receives a PPP loan
  - CANNOT double dip on Sick Pay/FMLA wages
- **Federal Payroll Tax Deferral**
  - Applies to everyone; defer all Federal taxes to 2021/2022
  - CANNOT claim if Company receives a PPP loan **AND** any of it is forgiven



# Stimulus Package – CARES Act

## Retention Credit

**Provides a credit against Employer portion of OASDI (6.2%)**

- **Tax Credit equal to 50% of Qualified Wages**
- Up to \$10,000 in Qualified Wages per Employee - \$5,000 max credit per Employee
  - Include: Employer Paid Group Health Insurance Costs (furloughed EE's)
  - Exclude: Paid Sick & Paid Family Leave Wages & Work Opportunity Tax Credit
- Applicable for certain wages paid from March 12<sup>th</sup>, 2020 to December 31<sup>st</sup>, 2020
- Tax Credit claimed every payroll; excess credits refunded by IRS within 2 weeks
- **CANNOT CLAIM EMPLOYEE RETENTION TAX CREDIT IF YOU HAVE A PPP LOAN**



# Stimulus Package – CARES Act

## Retention Credit

### More than 100 FTE's (in 2019)

- Paid Employees **While NOT Performing Services** in an Area where Authority Limits (Fully or Partially) Commerce, Travel, and Group Meetings due to COVID-19

OR

- Experienced 50% or More Decline in Gross Receipts
  - Start 1/1/2020
  - Compare Quarter to Same Quarter in Prior Year

\*End 1<sup>st</sup> Quarter When Gross Receipts are  $\geq 80\%$  of Same Quarter in Prior Year



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# Stimulus Package – CARES Act

## Retention Credit

### Less than 100 FTE's (in 2019)

- Paid Employees **(whether worked or not)** in an Area where Authority Limits (Fully or Partially) Commerce, Travel, and Group Meetings due to COVID-19

OR

- Experienced 50% or More Decline in Gross Receipts
  - Start 1/1/2020
  - Compare Quarter to Same Quarter in Prior Year

\*End 1<sup>st</sup> Quarter When Gross Receipts are  $\geq 80\%$  of Same Quarter in Prior Year



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# Stimulus Package – CARES Act

## Deferral of Payroll Taxes

- Deferral Period: Enactment date through 12/31/2020
- Deferral Amount: 100% of Employer OASDI Taxes (6.2%)
- 1<sup>st</sup> Payment: 50% of Deferred Amount – 12/31/2021
- 2<sup>nd</sup> Payment: Remainder of Deferred Amount – 12/31/2022
- Eligibility: **No PPP Loan Forgiveness/EIDL Loans**
- Liability: Non-payment of payroll tax obligations would still apply

\*Tax payments deferred under this act will be considered timely paid



# ***Stimulus Package – CARES Act Strategies***

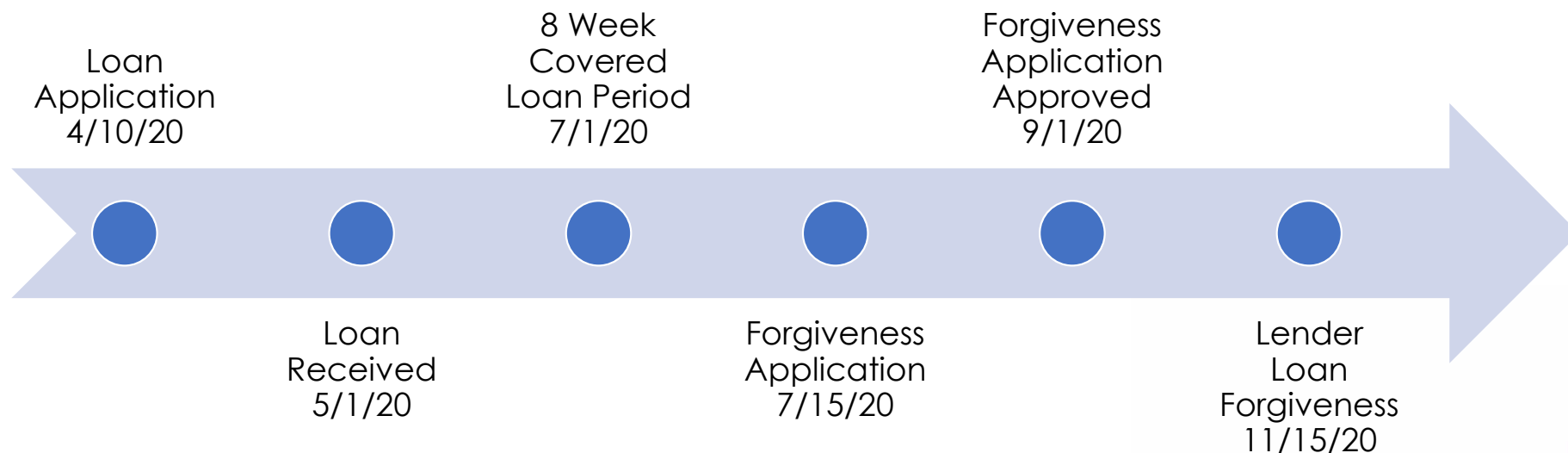
- Utilize Payroll Tax Deferral until PPP Loan Forgiveness Application
- Maximize your PPP Loan Forgiveness by understanding FTE Calcs
- Evaluate Alternatives to PPP Loan
- Educate your Employees and Business on FFCRA Benefits



# Stimulus Package – CARES Act Strategies

## Tax Deferral

- Utilize Payroll Tax Deferral until PPP Loan Forgiveness Application





# Stimulus Package – CARES Act Strategies

## Tax Deferral

- **Utilize Payroll Tax Deferral until PPP Loan Forgiveness Application**
  - Recapture Guidance Issued – IRS FAQ on Payroll Tax Deferral
  - Employer Social Security Taxes deferred until loan forgiveness\* issued **DO NOT** have to be recaptured, but can continued to be deferred until December 2021, 2022
  - Loan forgiveness date is defined as “date the lender issues a decision to forgive the loan”



# Stimulus Package – CARES Act Strategies

## Understand FTE Calculation

- **Optimize PPP Forgiveness: FTE calculations**
  - Depending on FTE definition, understand furlough/rehire/termination timings
  - Analyze your FT/PT designations when hiring / re-hiring employees
- **Need to track FTE count by payroll for 4 different periods:**
  - Covered Period = 8 weeks starting on Loan Funding Date
  - Feb 15th, 2019 – June 30th, 2019
  - Jan 1st, 2020 – Feb 29th, 2020
  - Feb 15th, 2020 - Apr 26th, 2020



## Stimulus Package – CARES Act Strategies

### Understand FTE Calculation

Month/Year	Month FTEs	Check Dates	Avg FTEs/Month												
3/2019	209.68	2	104.84												
4/2019	211.99	2	106												
5/2019	348.54	3	116.18												
6/2019	226.76	2	113.38												
Total Average:			110.1												
Co	Id	LastName	FirstName	cc1	cc1name	PayFreq	FTThreshold	StartDate	EndDate	EmpType	Base Emp Type	HoursWorked	FTE	CheckDate	
DEMO29	19	Bania	Kenny	3	Raleigh	B	60	02/15/2019	06/30/2019	PT	PT	33.31	0.56	03/05/2019	
DEMO29	45	Barnes	Crystal	11	Rochester	B	60	02/15/2019	06/30/2019	PT	PT	8.25	0.14	03/05/2019	
DEMO29	68	Anastasio	Trey	11	Rochester	B	60	02/15/2019	06/30/2019	FT	FT	80		1 03/05/2019	
DEMO29	142	Barrett	Jimmy	49	Fort Lauderdale	B	60	02/15/2019	06/30/2019	PT	PT	63.7		1 03/05/2019	
DEMO29	202	Bartha	Justin	18	New York City	B	60	02/15/2019	06/30/2019	PT	PT	76.45		1 03/05/2019	
DEMO29	373	Berman	Beth	14	Detroit	B	60	02/15/2019	06/30/2019	PT	PT	78.07		1 03/05/2019	
DEMO29	391	Bernard	Giovanni	18	New York City	B	60	02/15/2019	06/30/2019	PT	PT	57.13	0.95	03/05/2019	
DEMO29	439	Andrews	Julie	8	Los Angeles	B	60	02/15/2019	06/30/2019	FT	FT	80		1 03/05/2019	
DEMO29	503	Stark	Aria	3	Raleigh	B	60	02/15/2019	06/30/2019	FT	FT	80		1 03/05/2019	
DEMO29	519	Blair	Tony	2	Boston	B	60	02/15/2019	06/30/2019	PT	PT	29.61	0.49	03/05/2019	
DEMO29	745	Bobby	Ricky	5	Denver	B	60	02/15/2019	06/30/2019	PT	PT	72.4		1 03/05/2019	
DEMO29	828	Bonilla	Bobby	3	Raleigh	B	60	02/15/2019	06/30/2019	PT	PT	72.32		1 03/05/2019	
DEMO29	835	Baines	Harold	1	Atlanta	B	60	02/15/2019	06/30/2019	FT	FT	80		1 03/05/2019	
DEMO29	1021	Brady	Tom	49	Fort Lauderdale	B	60	02/15/2019	06/30/2019	PT	PT	29.5	0.49	03/05/2019	
DEMO29	1087	Brown	Leroy	2	Boston	B	60	02/15/2019	06/30/2019	PT	PT	9	0.15	03/05/2019	
DEMO29	1150	Browning	Carrie	9	Minneapolis	B	60	02/15/2019	06/30/2019	FT	FT	56.5	0.94	03/05/2019	
DEMO29	1207	Campbell	Glenn	12	San Antonio	B	60	02/15/2019	06/30/2019	PT	PT	71.29		1 03/05/2019	
DEMO29	1259	Carlton	Steve	1	Atlanta	B	60	02/15/2019	06/30/2019	PT	PT	10.27	0.17	03/05/2019	
DEMO29	1313	Carr	Kathryn	18	New York City	B	60	02/15/2019	06/30/2019	PT	PT	25.25	0.42	03/05/2019	
DEMO29	1342	Carson	Johnny	11	Rochester	B	60	02/15/2019	06/30/2019	PT	PT	19.87	0.33	03/05/2019	
DEMO29	1367	Carter	June	14	Detroit	B	60	02/15/2019	06/30/2019	PT	PT	80.16		1 03/05/2019	
DEMO29	1382	Chaplin	Charlie	10	Phoenix	B	60	02/15/2019	06/30/2019	FT	FT	76.9		1 03/05/2019	
DEMO29	1791	Duke	Patty	11	Rochester	B	60	02/15/2019	06/30/2019	PT	PT	72.05		1 03/05/2019	
DEMO29	1855	Adams	Amy	1	Atlanta	B	60	02/15/2019	06/30/2019	FT	FT	80		1 03/05/2019	
DEMO29	1866	Clinton	George	18	New York City	B	60	02/15/2019	06/30/2019	PT	PT	72.47		1 03/05/2019	
DEMO29	1996	Skull	Inez	8	Los Angeles	B	60	02/15/2019	06/30/2019	FT	FT	63.61		1 03/05/2019	
DEMO29	2020	McCræe	Augustus	14	Detroit	B	60	02/15/2019	06/30/2019	FT	FT	80		1 03/05/2019	
DEMO29	2418	Call	Woodrow	9	Minneapolis	B	60	02/15/2019	06/30/2019	FT	FT	80.63		1 03/05/2019	
DEMO29	2433	Dobbs	Newton	2	Boston	B	60	02/15/2019	06/30/2019	FT	FT	80		1 03/05/2019	
DEMO29	2821	Donovan	Ray	9	Minneapolis	B	60	02/15/2019	06/30/2019	FT	FT	80		1 03/05/2019	
DEMO29	3051	Draper	Betty	12	San Antonio	B	60	02/15/2019	06/30/2019	PT	PT	75.86		1 03/05/2019	
DEMO29	3214	Fletcher	Jessica	2	Boston	B	60	02/15/2019	06/30/2019	PT	PT	75.95		1 03/05/2019	
DEMO29	3288	Floyd	Rachel	1	Atlanta	B	60	02/15/2019	06/30/2019	PT	PT	37.81	0.63	03/05/2019	
DEMO29	3291	Floyd	Raymond	10	Phoenix	B	60	02/15/2019	06/30/2019	PT	PT	30.13	0.5	03/05/2019	
DEMO29	3341	French	Mark	8	Los Angeles	B	60	02/15/2019	06/30/2019	PT	PT	68.34		1 03/05/2019	
DEMO29	3412	Gaddis	Evan	3	Raleigh	B	60	02/15/2019	06/30/2019	PT	PT	15.53	0.26	03/05/2019	

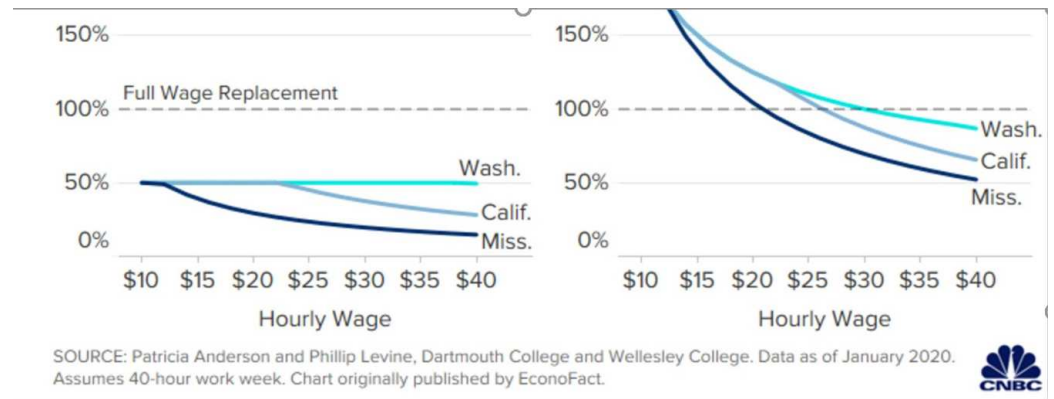
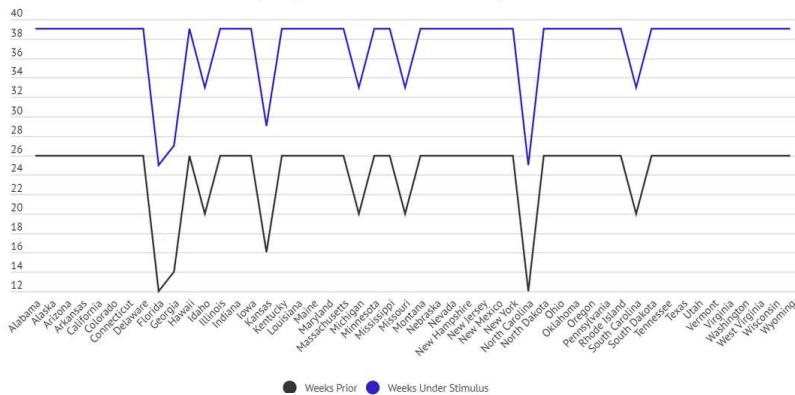
# Stimulus Package – CARES Act Strategies

## Understand FTE Calculation

### Employer vs. Government

- **Employers must now Battle Unemployment when Hiring or Re-hiring Employees**
  - \$600/week Federal Unemployment is valid until July 31, 2020
  - State + Federal Unemployment Benefits can last up to 39 weeks

Unemployment Duration By State



# **Stimulus Package – CARES Act Strategies**

## *Understand FTE Calculation*

### **Hiring Strategies to Consider**

- Hazard or “Hero” Pay
- Hiring or Retention Bonuses
- Employer Health Benefit Incentives for Highly Compensated Employees
- Strategize Retirement Plan Contributions
- Employer Paid “Tips” are included as Forgivable Payroll Spend



# Stimulus Package – CARES Act Strategies

## Alternatives to PPP

- **Defer PPP Loan until Business Operations Return to Normal**
  - Increases Forgiveness potential if fully employed during 8-week covered period
  - Utilize Employee Retention Credit and Payroll Tax Deferral until PPP loan approved/forgiven
  - Utilize EIDL loan w/ 1-year payment deferral then assess conversion to PPP
- **Utilize Employee Retention Tax Credit for Furloughed Employees**
  - If you are paying qualified healthcare expenses for furloughed employees, use the Employee Retention Tax Credit to get this money back now
  - If you are paying compensation to furloughed employees for hours they are not working, use this credit against all payroll tax deposits



# Stimulus Package – CARES Act Strategies

## FFCRA Benefits

- **IRS is indirectly paying Sick Pay/FMLA eligible employees via payroll tax credits**
  - Payroll Tax Credit =
    - 1) Employee Gross Pay for Sick Pay/FMLA **PLUS**
    - 2) Employer Medicare Taxes for Sick Pay/FMLA Wages **PLUS**
    - 3) **Allocable Qualified Healthcare Expenses**
  - 1) + 2) are capped at either:
    - \$511/day if Employee is sick/quarantined – 10 day or \$5,110 max
    - \$200/day if Employee is caring for someone sick/quarantined OR caring for children due to school closures – 10 day or \$2,000 max (\$10,000 max for FMLA leave)
      - Intermittent Sick Pay/FMLA hours are acceptable in certain situations
  - **NO CAP** for payroll tax credit derived from **allocable qualified healthcare expenses**



# Stimulus Package – CARES Act Strategies

## FFCRA Benefits

- Eligible Employers are those with no more than 500 total employees (FT, PT, other, etc.) as of the day the Sick Pay/EFMLA leave is requested
- FFCRA Benefits for Part-Time Employees are generally derived by using standard 2 weeks average hours and rate of pay over the past 6 months
- Payroll Tax Credits are refundable and claimed on a deposit by deposit basis
  - Tax credit claimed against **ALL** Federal employment taxes
  - Any excess credits claimed on Form 7200 and cash issued within 2 weeks





# Strategy: Document, Document, Document

## **Keep it simple**

- ✓ Utilize a spreadsheet to track expenses
- ✓ Paperless is key – as items will need to be uploaded to bank
- ✓ Save documents grouped in some fashion (Expense/Weekly)
- ✓ EVERYTHING!!!!!!



# Strategy: Spreadsheet For Tracking Eligible Costs

8 Week Expense Analysis / Forgiveness Calculation				
Company/Entity Name:				
Date Money Received/Funded: (Start of Week)	4/9/2020	4/16/2020	4/23/2020	4/30/2020
End of Week	4/15/2020	4/22/2020	4/29/2020	5/6/2020
	Week 1	Week 2	Week 3	Week 4
Payroll Expenses				
Salary, wage, commission, etc.		\$ 60,000		\$ 60,000
Adjustment for employees making > \$100,000 (A)		(1,923)		(1,923)
Less: Adjust for qualified sick leave wages for which a credit is allowed (B)		(5,000)		(5,000)
Payment of cash tip or equivalent				
Payment for vacation, parental, family, medical, or sick leave				
Allowance for dismissal or separation				
Payment of group health care benefits including insurance premiums				8,000
Adjustment for Employee Amount of Health Insurance Withheld		(2,500)		(2,500)
Payment of any retirement benefit			6,000	
Adjustment for Employee Amount of Retirement Withheld		(4,000)		(4,000)
Payment of State and Local Taxes (Usually Just SUTA)		500		500
Self-Employment Earnings < \$100k (Usually Guaranteed Payment)%				
Adjustments to be named at a later date				
Adjustments to be named at a later date				
<b>TOTAL PAYROLL COSTS</b>	<b>\$ -</b>	<b>\$ 47,077</b>	<b>\$ 6,000</b>	<b>\$ 55,077</b>

## Strategy: Spreadsheet For Tracking Eligible Costs

	Total Expenses			
TOTAL PAYROLL COSTS	-	47,077	6,000	55,077
TOTAL RENT COSTS	23,000	-	-	-
TOTAL MORTGAGE INTEREST COSTS	-	9,000	-	-
TOTAL ELECTRIC COSTS	5,000	-	6,500	-
TOTAL GAS COSTS	-	-	500	400
TOTAL WATER COSTS	-	900	-	-
TOTAL TELEPHONE COSTS	-	-	-	1,000
TOTAL INTERNET COSTS	250	-	-	-
TOTAL COSTS	28,250	56,977	13,000	56,477
ACCUMULATED PAYROLL COSTS	-	47,077	53,077	108,154
ACCUMULATED TOTAL COSTS	28,250	85,227	98,227	154,704
PAYROLL PERCENTAGE	0.00%	55.24%	54.04%	69.91%
POTENTIAL MAX FORGIVENESS	-	62,769	70,769	144,205
POTENTIAL FORGIVENESS LOST	28,250	22,458	27,458	10,499

## Comparison of FTE Options – Base Period

Full Time & Full Time Equivalent Baseline - Provided by Payroll Company						
Average FT&FTE's for the Period of February 15th 2019 thru June 30th 2019						
	February	March	April	May	June	Average
A = Total Full Time Equivalents	80.00	85.00	85.00	90.00	95.00	87.00
Average FT&FTE's for the Period of January 1st 2020 thru February 29th 2020						
	January	February	Average			
B = Total Full Time Equivalents	80.00	84.00	82.00			
C = FT & FTE for Baseline Period Selection (Lesser of A or B)	82.00					



# FTE – Maximizing Loan Forgiveness

8 Week Covered Period Full Time Equivalent - Information provided by Payroll Company								
Company/Entity Name:	Company ABC				Hour Definition of FTE:			30
Date Money Received/Funded: (Start of Week)	4/21/2020	4/28/2020	5/5/2020	5/12/2020	5/19/2020	5/26/2020	6/2/2020	6/9/2020
End of Week	4/27/2020	5/4/2020	5/11/2020	5/18/2020	5/25/2020	6/1/2020	6/8/2020	6/15/2020
	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8
D = Total Actual FT & FTE	65.00	75.00	80.00	85.00	90.00	95.00	100.00	75.00
C = Full Time Equivalents Average Needed	82.00	82.00	82.00	82.00	82.00	82.00	82.00	82.00
Cumulative Average of D	65.00	70.00	73.33	76.25	79.00	81.67	84.29	83.13
Difference from Baseline	17.00	12.00	8.67	5.75	3.00	0.33	(2.29)	(1.13)
Percentage of Baseline	79%	85%	89%	93%	96%	100%	103%	101%
Equivalent hours based on PPP Loan Law	510.00	360.00	260.00	172.50	90.00	10.00	(68.57)	(33.75)
Number of Restaurants	4	4	4	4	4	4	4	4
Hours needed on average per restaurant	127.50	90.00	65.00	43.13	22.50	2.50	(17.14)	(8.44)





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